

AMENDED IN SENATE APRIL 12, 2005

SENATE BILL

No. 36

Introduced by Senators Florez and Escutia
(Principal coauthor: Assembly Member Berg)

December 15, 2004

An act to add Section ~~84512~~ 85310.7 to the Government Code, relating to the Political Reform Act of 1974, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 36, as amended, Florez. Political Reform Act of 1974: disclosure.

~~Under existing law, the Political Reform Act of 1974, committees are required to file statements of organization and periodic campaign statements relating to receipts and expenditures, are required to maintain records, have specified notification obligations to contributors and others, and must comply with related provisions.~~

~~This bill would require a nonprofit organization that is exempt from taxation under Section 501(c)(4) of the Internal Revenue Code to comply with these filing and related requirements if it makes expenditures of \$1,000 or more in a calendar year for advertisement that clearly identifies a candidate for elective state office without expressly advocating election or defeat of the candidate, and that it knows or should know is likely to influence public opinion concerning the candidate. It would impose similar filing and disclosure requirements on these nonprofit organizations that make similar advertisement expenditures concerning one or more identifiable ballot measures, as specified.~~

Existing provisions of the Political Reform Act of 1974, as amended by Proposition 34 of the November 7, 2000, statewide general

election, require a person who pays or promises to pay \$50,000 or more for an issue advocacy communication, which clearly identifies a candidate for elective state office but does not expressly advocate the election or defeat of the candidate, made within 45 days of an election, to file a specified disclosure report online or electronically with the Secretary of State within 48 hours of making or promising the payment. Existing provisions of the act also provide that if any person has received a payment or a promise of a payment from other persons totaling \$5,000 or more for the purpose of making a communication described above, except as payment for goods or services as specified, the person receiving the payments shall disclose on the report the name, address, occupation and employer, and date and amount received from the person.

This bill would require a similar filing by a person who pays or promises to pay \$50,000 for a communication to 10,000 voters within the jurisdiction that the candidate is seeking office. This bill would require that additional disclosure if a person has received the payment or promise of a payment totaling \$2,500 or more, for the purpose of making the communication described above.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing potential criminal penalties on persons who violate the provisions of this bill, and by requiring local entities to receive and handle certain of the newly mandated reports.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further its purposes with a 2/3 vote of each house and compliance with certain specified procedural requirements.

The bill would declare that it furthers the purpose of the act and would therefore require a $\frac{2}{3}$ vote.

This bill would declare that it is to go into effect immediately as an emergency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 84512 is added to the Government~~
2 ~~Code, to read:~~

3 ~~84512. Any nonprofit organization that is exempt from~~
4 ~~taxation under Section 501(c)(4) of the Internal Revenue Code~~
5 ~~shall comply with all filing, notification, recordkeeping, and~~
6 ~~other obligations imposed by this act on a committee as defined~~
7 ~~by subdivision (a) of Section 82013 if it does any of the~~
8 ~~following:~~

9 ~~(a) Makes expenditures of one thousand dollars (\$1,000) or~~
10 ~~more in a calendar year for advertisement that clearly identifies a~~
11 ~~candidate for elective state office, but does not expressly~~
12 ~~advocate the election or defeat of the candidate, and that it knows~~
13 ~~or should know is likely to influence public opinion concerning~~
14 ~~the candidate.~~

15 ~~(b) Makes expenditures of one thousand dollars (\$1,000) or~~
16 ~~more in a calendar year for advertisement that it knows or should~~
17 ~~know is likely to influence public opinion concerning one or~~
18 ~~more identifiable ballot measures.~~

19 ~~SECTION 1. Section 85310.7 is added to the Government~~
20 ~~Code, to read:~~

21 ~~85310.7. (a) Any person who makes a payment or a promise~~
22 ~~of payment totaling fifty thousand dollars (\$50,000) or more for~~
23 ~~a communication that clearly identifies a candidate for elective~~
24 ~~state office, but does not expressly advocate the election or defeat~~
25 ~~of the candidate, and that is disseminated, broadcast, or~~
26 ~~otherwise published to more than 10,000 voters in the~~
27 ~~jurisdiction in which the candidate is seeking office, shall file~~
28 ~~online or electronically with the Secretary of State a report~~
29 ~~disclosing the name of the person, address, occupation, and~~
30 ~~employer, and amount of the payment. The report shall be filed~~

1 *within 48 hours of making the payment or the promise to make*
2 *the payment.*

3 *(b) (1) Except as provided in paragraph (2), if any person has*
4 *received a payment or a promise of a payment from other*
5 *persons totaling two thousand five hundred dollars (\$2,500) or*
6 *more for the purpose of making a communication described in*
7 *subdivision (a), the person receiving the payments shall disclose*
8 *on the report the name, address, occupation and employer, and*
9 *date and amount received from the person.*

10 *(2) A person who receives or is promised a payment that is*
11 *otherwise reportable under paragraph (1) is not required to*
12 *report the payment if the person is in the business of providing*
13 *goods or services and receives or is promised the payment for the*
14 *purpose of providing those goods or services.*

15 *(c) Compliance with this section constitutes compliance with*
16 *Section 85310.*

17 *(d) If any provision of this section is successfully challenged,*
18 *any award of attorney's fees, costs, or both shall be paid from*
19 *the General Fund and the commission's budget shall not be*
20 *reduced accordingly.*

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution for
23 certain costs that may be incurred by a local agency or school
24 district because, in that regard, this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the
26 penalty for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition of a
28 crime within the meaning of Section 6 of Article XIII B of the
29 California Constitution.

30 However, if the Commission on State Mandates determines
31 that this act contains other costs mandated by the state,
32 reimbursement to local agencies and school districts for those
33 costs shall be made pursuant to Part 7 (commencing with Section
34 17500) of Division 4 of Title 2 of the Government Code.

35 SEC. 3. The Legislature finds and declares that this bill
36 furthers the purposes of the Political Reform Act of 1974 within
37 the meaning of subdivision (a) of Section 81012 of the
38 Government Code.

39 SEC. 4. *This act is an urgency statute necessary for the*
40 *immediate preservation of the public peace, health, or safety*

1 *within the meaning of Article IV of the Constitution and shall go*
2 *into immediate effect. The facts constituting the necessity are:*
3 *In order that the disclosures required by this act be applied to*
4 *elections in this calendar year, it is necessary that this act go into*
5 *immediate effect.*

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8 **CORRECTIONS:**

9 **Heading – Line 1.**

10 **Correction Note – Page 1.**

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